

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-2648

**PETITION OF METROPOLITAN WASHINGTON
ORTHODOX SENIORS HOUSING, INC.**

OPINION OF THE BOARD

(Opinion Adopted December 21, 2005)

(Effective Date of Opinion: January 19, 2006)

Case No. S-2648 is an application for a special exception, pursuant to Section 59-G-2.35 of the Zoning Ordinance, to construct and operate housing and related facilities for senior adults or person with disabilities.

The subject property is located at 14124 Seneca Road, Germantown, Maryland, 20874, in the RE-2 Zone.

The Hearing Examiner for Montgomery County held a public hearing on October 3, 2005, closed the record in the case on October 26, 2005, and again on November 25, 2005, and on November 29, 2005, issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception **Granted** Subject
To Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on December 21, 2005. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

- (1) The Petitioner shall be bound by all of its testimony and exhibits of record, including the Site Plan, Exhibit 34(b), the Site Plan Details and Notes, Ex. 34(c), the Landscape Plan, Ex. 34(e), and the Lighting and Photometric Plan, Ex. 34(d), and by any representations of its counsel and witnesses

identified in the Hearing Examiner's Report and Recommendation or the Board Opinion.

- (2) The development permitted under this special exception is limited to a residential, assisted living housing facility for up to 35 senior adults and persons with disabilities.
- (3) As noted on the site plan, between 15 and 30 percent of the total 35 units must meet the affordability requirements of Zoning Ordinance Section 59-G-2.35(A) through (D), or any successor statutory requirement that may apply.
- (4) Petitioner must submit to the Board, within one year of the Board's Opinion in this matter, written proof that the age restrictions applied to the subject development qualify for at least one type of exemption from the familial status requirements of the federal "Fair Housing Act."
- (5) A Final Forest Conservation Plan shall be approved by Technical Staff of the Maryland-National Capital Park and Planning Commission prior to the release of sediment and erosion control permit, building permit, or platting, as appropriate. This plan must demonstrate full compliance with the County's Forest Conservation Law, and must include a detailed Tree Save Plan prepared by an ISA-certified arborist for the large trees in the northwestern portion of the site, and details of an off-site afforestation and planting plan.
- (6) Site landscaping must include, in addition to the plantings shown on the Landscape Plan, Ex. 34(e), additional plantings along the southern property line, including evergreens and understory plantings, sufficient to visually screen the subject property from adjacent land uses so as to avoid any significant adverse visual impact.
- (7) The Petitioner must comply with Department of Permitting Services requirements for storm water management and sediment and erosion control.
- (8) The Petitioner must comply with Chapter 50 of the Montgomery County Code.
- (9) At the time of subdivision, the Petitioner must dedicate the land necessary to provide 40 feet of public right-of-way from the centerline of Seneca Road along the site's Seneca Road frontage.

- (10) The Petitioner must obtain an access permit from the Maryland State Highway Administration for the proposed Seneca Road driveway.
- (11) Petitioner must construct a five-foot-wide sidewalk along the entire Seneca Road frontage, in accordance with the Master Plan goal of a pedestrian-friendly rural village.
- (12) In the event that Petitioner obtains a sign variance, Petitioner must submit to the Board a copy of the variance approval and a representation of the appearance of the approved sign.

On a motion by Wendell M. Holloway, seconded by Angelo M. Caputo, with Caryn L. Hines and Donna L. Barron, Vice-Chair in agreement, and Allison Ishihara Fultz, Chair necessarily absent, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Donna L. Barron
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 19th day of January, 2006.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.